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GOVERNMENT OF MEGHALAYA

LAW (B) DEPARTMENT

ORDERS BY THE GOVERNOR

NOTIFICATION

The 14th August, 2013.

No.LL(B)11/99/146.—The Meghalaya Lokayukta Act, 2012 (Act No. 6 of 2013) is hereby published for general information.

MEGHALAYA ACT NO. 6 OF 2013

(As passed by the Meghalaya Legislative Assembly)

Received the assent of the Governor on 14th August, 2013.

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THE MEGHALAYA LOKAYUKTA ACT, 2012

An

Act

to provide for the establishment of a body of Lokayukta for the State of Meghalaya to inquire into allegations of corruption against certain public functionaries and for matters connected therewith or incidental thereto.

Be it enacted by the Legislature of the State of Meghalaya in the Sixty-third Year of the Republic of India as follows:-

Short title, extent and commencement. 1. (1) This Act may be called the Meghalaya Lokayukta Act, 2012.

(2) It extends to the whole State of Meghalaya and applies also to the public servants posted outside Meghalaya in connection with the affairs of the State.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires:-

(a) "Act" means the Meghalaya Lokayukta Act, 2012;

(b) "Act of corruption" means and includes :-

(i) anything made punishable under the Prevention of Corruption Act, 1988 which would also include any offence committed by an elected member of Meghalaya Legislative Assembly subject to Article 194 of the Constitution of India;

(ii) wilfully giving any undue benefit by a public servant to any person or obtaining any undue benefit by a public servant from any person in violation of any law or rules;

(c) "allegation" in relation to a public servant, means any affirmation that such public servant-

(i) has abused his position as such to obtain any gain or favour to himself or to any person or to cause undue harm or hardship to any other person;

(ii) was actuated in the discharge of his functions as such public servant by personal interest or improper or corrupt motive; or

(iii) is guilty of corruption, or lack of integrity in his capacity as such public servant;

- (d) “competent authority” in relation to public servant means -
 - (i) in case of Chief Minister or Minister or Parliamentary Secretary or Member of Legislative Assembly of Meghalaya - the Governor of Meghalaya; and
 - (ii) in the case of any other public servant - such Appointing Authority;
- (e) “Complaint” means any allegation made in writing to the Lokayukta or to any Member about corruption;
- (f) “Government” means Government of Meghalaya.;
- (g) “Government servant” means a public servant, who is serving in connection with the affairs of the State of Meghalaya and includes any such person whose services are temporarily placed at the disposal of the Government of India, the Government of another State, a local authority or anybody whether incorporated or not, and also any person in the service of the Central or another State Government or a local or other authority whose services are temporarily placed at the disposal of the Government of Meghalaya;
- (h) “Lokayukta” means a person appointed under section 3 and includes the Members appointed under this Act;
- (i) “Minister” means a member of the Council of Ministers, by whatever name called, for the State of Meghalaya, that is to say the Chief Minister, Deputy Chief Minister, a Minister, a Minister of State or a Deputy Minister;
- (j) “Officer” means a person appointed to a public service or post in connection with the affairs of the State of Meghalaya;
- (k) “Public Authority” means any authority or body or institution of self-governance established or constituted –
 - (i) by or under the Constitution; or

- (ii) by or under any other law made by the State Legislature; or
 - (iii) by notification issued or order made by the Government, and includes anybody owned, controlled or substantially financed by the Government;
- (l) “public servant” denotes a person falling under any of the following descriptions and includes, subject to the provisions of sub-section (4) of section 11, a person who at any time in the post fell under any of the following descriptions, namely,-
- (i) every Minister referred to in clause (i);
 - (ii) Speaker and Deputy Speaker with exception to clause (e) of section 30;
 - (iii) every Parliamentary Secretary;
 - (iv) every member of the Legislative Assembly of the State of Meghalaya not being Minister referred to in clause (i);
 - (v) every officer referred to in clause (j);
 - (vi) Chairman/ Vice Chairman/ and Ward Commissioners of Municipal Board or Town Committee and their employees;
 - (vii) Chief Executive Member, the Executive Members, the Chairman and the Members of the Autonomous District Councils established under the Sixth Schedule to the Constitution of India and their employees;
 - (viii) Chairman/ Vice-Chairman/ Members of every Board/ Commission/ Corporation/ Government Company by whatever name called established by the Government of Meghalaya and includes their employees;
 - (ix) Any society registered under the Meghalaya

Societies Registration Act, 1983, or any law relating to Cooperative Societies for the time being in force, owned or controlled by the State Government and which is notified by the Government in this behalf in the Official Gazette;

(m) "Public Prosecutor" means a person appointed by the Government under section 24 of the Cr.P.C. 1973 or persons appointed under section 23 of this Act;

(n) "Secretary" means Chief Secretary, Additional Chief Secretary, Principal Secretary, Commissioner and Secretary, Secretary to the Government of Meghalaya and includes Additional Secretary, Joint Secretary, Deputy Secretary, Under Secretary and also an Officer on Special Duty and such other officers to the Government of Meghalaya; and

(o) "State" means the State of Meghalaya.

Appointment of
Lokayukta and
Members of
Lokayukta.

3. (1) As soon as after the commencement of this Act, the Governor may, on the recommendation of the Selection Committee, by warrant under his hand and seal appoint a person to be known as a Lokayukta and such Members not exceeding two for the purpose of conducting investigations in accordance with the provisions of this Act.

(2) The Lokayukta shall be a person who is or has been a Judge of the Supreme Court or a High Court or who has or been an officer of the rank of Secretary to the Government of India or Chief Secretary of the State.

(3) Every person appointed as Lokayukta shall before entering upon his office, make and subscribe before the Governor an oath or affirmation in the form set out for this purpose in the Schedule.

(4) The Member of the Lokayukta shall be a person who is or has been a District and Sessions Judge or who is or has been a Secretary to the Government of Meghalaya:

Provided that either one of the person appointed under sub-section (2) and sub-section (4) shall be from the legal background.

(5) Every Member of the Lokayukta shall, before entering upon his office, make and subscribe before the Governor an oath or affirmation in the form set out for this purpose in the Schedule.

(6) The Lokayukta may constitute one or more benches for the purpose of this Act.

(7) The headquarter of Lokayukta shall be at Shillong and nothing in this sub-section shall prevent the Lokayukta to sit circuit Benches in any part of the State of Meghalaya for the purpose of this Act.

(8) All decisions of the Lokayukta shall be made by a majority and in case of tie the Lokayukta shall have a casting vote.

(9) No person shall be eligible to be appointed as Lokayukta or Member under this Act, who is or has been -

- (i) a member of Parliament or a member of the State Legislature;
- (ii) a person convicted of any offence involving moral turpitude;
- (iii) a person of less than forty-five years of age;
- (iv) a member of District Council or Municipality;
- (v) a person who has been removed or dismissed from service.

(10) Any person upon his entering the office of Lokayukta or Member shall relinquish any office of trust or profit or any business or profession held by him.

4. On ceasing to hold office-

- (a) the Lokayukta shall be ineligible for further employment under the Government of Meghalaya or for any employment under any office, under any local authority, corporation, company or society established by the Government of Meghalaya except for re-nomination as such Lokayukta.

Prohibition as to holding offices by Lokayukta and Member of Lokayukta on ceasing to hold such office.

- (b) a Member of Lokayukta shall be ineligible for further employment under the Government of Meghalaya or for any employment under any office, under any local authority, corporation, company or society established by the Government of Meghalaya, except for re-nomination as Member.

Term and
Conditions of Office
of Lokayukta and
Member of
Lokayukta.

5. (1) Every person appointed as Lokayukta or Member shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of seventy years whichever is earlier.

(2) Every Lokayukta and Member may be re-nominated for another term of three years provided he has not attained the age of seventy years as referred to in sub-section (1).

(3) Lokayukta or Member may by writing under his hand addressed to the Governor resign from his office.

(4) If the office of Lokayukta becomes vacant or where he is unable to perform the duties of his office, the Senior Member shall perform the duties of Lokayukta as the Governor may by order direct.

(5) Where the office of a Member becomes vacant or where he is unable to perform the duties of his office, the other Member or the Lokayukta shall perform the duties as the Governor may by order direct.

Lokayukta and
Member entitled to
pay, allowances,
pension and other
condition of service.

6. (1) The Lokayukta and Member of Lokayukta shall be entitled to such pay, allowances, pension and other conditions of service as may be prescribed.

(2) All expenditures relating to pay and allowances and other conditions of service of Lokayukta and Members shall be charged to the Consolidated Fund of the State.

Removal of
Lokayukta and
Member.

7. No Lokayukta or Member shall be removed from office except by process of impeachment through a resolution supported by majority of the total Membership of the House of the Legislative Assembly of Meghalaya:

Provided that no such resolution shall be moved except

on grounds of misbehaviour or incapacity to perform his duties.

Selection
Committee.

8. (1) A Selection Committee shall, for the purpose of appointment of Lokayukta and such other Members referred to in Section 3, be constituted consisting of the following Members:-

- (i) Chief Minister – Chairman;
- (ii) Chief Justice or a Judge nominated by the Chief Justice of concerned High Court – Member;
- (iii) Speaker of Meghalaya Legislative Assembly – Member;
- (iv) Leader of Opposition of Meghalaya Legislative Assembly – Member; and
- (v) Retired Lokayukta or Retired Member of Lokayukta – Member.

(2) A Selection Committee shall, on such terms and conditions, appoint a Search Committee, consisting of five Members in all to be decided by it, for the purpose of finding out qualified and suitable persons for appointment as Lokayukta and Member of Lokayukta.

(3) A Selection Committee or the Search Committee, as the case may be, may adopt their own working procedure in discharging their functions under this Act.

(4) A Search Committee shall submit the names of suitable persons for appointment as Lokayukta or such other Member as the case may be, within a period of two months from the date of reference, to the Selection Committee.

(5) A Selection Committee on receipt of the report of the Search Committee shall convene a meeting for finalising the names within a period of one month from the date of receipt of the report from the Search Committee and thereafter, the names shall be submitted to the Governor for approval and appointment.

Power and functions of Lokayukta and Member.

9. The Lokayukta and Member shall have the following powers and functions, namely,-

- (a) to receive complaint and investigate under this Act;
- (b) to exercise superintendence over the investigation of offences involving any act of corruption as registered;
- (c) to order search and seizure as provided under Cr.P.C., 1973;
- (d) may recommend cancellation or modification of a lease, licence, permission, contract or agreement obtained by corrupt means and also recommend black listing of a firm, company, contractor, or any other person involved in the act of corruption:

Provided that no such recommendation shall be made unless an investigation has been completed and found that an act of corruption has been committed.

Matters to be investigated and enquired by Lokayukta and Member.

10. (1) Subject to the provisions of this Act and on a complaint involving an allegation being made in that behalf, the Lokayukta or Member may investigate, or cause to be investigated, any action which is taken by, or with the general or specific approval of,-

- (i) any public servant; and
- (ii) any other public servant being a public servant of a class or sub-class in public servants notified by the State Government on consultation with the Lokayukta.

(2) The Lokayukta may, by general or special order, assign to each Member matters which may be investigated by him under this Act:

Provided that no investigation made by a Member under this Act, and no action taken or thing done by him in respect of such investigation shall be opened to question on the ground only that such investigation related to a matter, which is not assigned to him by such order.

Matters not subject to investigation.

11. (1) Except as hereinafter provided the Lokayukta or a Member shall not conduct any investigation under this Act, -

- (a) except on a complaint made under and in accordance with section 12; and
- (b) in the case of a complaint involving an allegation in respect of any action if the complainant has or had any remedy by way of proceeding before any Tribunal or Court of Law:

Provided that nothing in sub-clause (b) shall prevent the Lokayukta or a Member from conducting an investigation if he is satisfied that such person could not or cannot, for sufficient cause, have recourse to a remedy referred to in the aforesaid sub-clause.

(2) The Lokayukta or a Member shall not investigate any action, -

- (a) in respect of which a formal and public inquiry has been ordered under the Public Servants (Inquiries) Act, 1850 (Central Act 37 of 1850), by the Government of India or by the State Government; or
- (b) in respect of a matter which has been referred for inquiry to a Commission of Inquiry under the Commissions of Inquiry Act, 1952 (Central Act 60 of 1952), by the Government of India or by the State Government.

(3) The Lokayukta or a Member shall not investigate any complaint which is excluded from his jurisdiction by virtue of a notification issued under section 22.

(4) The Lokayukta or a Member shall not investigate any complaint involving an allegation, if the complaint is made after the expiry of ten years from the date on which the action complained against is alleged to have taken place:

Provisions relating to complaints.

12. (1) Subject to the provisions of this Act, a complaint may be made under this Act to the Lokayukta or a Member, in the

case of an allegation, by any person other than a public servant:

Provided that, where the person aggrieved is unable to act for himself, the complaint may be made by any person who in law represents his estate or, as the case may be, by any person who is authorised by him in this behalf.

(2) Every complaint shall be accompanied by the complainant's own affidavit in support thereof and the same shall be verified before a Magistrate of First Class together with all documents in his possession pertaining to the accusation.

(3) Every affidavit under this section as well as all annexures thereto shall be verified in the manner laid down in the Code of Civil Procedure, 1908 for the verification of pleadings and affidavits respectively.

(4) Not less than three copies of the complaint as well as each of its annexures shall be submitted by the complainant.

(5) A complaint which does not comply with any of the foregoing provisions shall not be entertained.

(6) Notwithstanding anything contained in sub-sections (1) to (5), or in any other enactment, any letter written to the Lokayukta or Member by a person in police custody, or in a gaol or in any asylum or other place for insane persons, shall be forwarded to the addressee unopened and without delay by the police officer or other persons in charge of such gaol, asylum or other place, and the Lokayukta or Members of Lokayukta, as the case may be, may entertain it and treat it as a complaint, but no action in respect of such complaint shall be taken unless it is accompanied or subsequently supported by an affidavit under sub-sections (2),(3)and (4).

Procedure in respect of investigation.

13. (1) Where the Lokayukta or a Member proposes (after making such preliminary inquiry, if any, as he deems fit) to conduct any investigation under this Act, he-

- (a) shall forward a copy of the complaint to the public servant concerned and the competent authority concerned;

(b) shall afford to the public servant concerned an opportunity to offer his comments on such complaint; and

(c) may make such orders as to the safe custody of documents relevant to the investigation, as he deems fit.

(2) Every proceeding of investigation under this Act, shall be conducted in such a manner that the proceedings therein shall not be disclosed to the public or the press whether before, during or after the investigation which shall include the identity of the complainant and the public servant affected:

Provided that all investigations or proceedings under this Act, as a result of any allegation on a complaint against the Chief Minister of State of Meghalaya shall be initiated only after the approval of full bench and all such investigations or proceedings shall be conducted in camera.

(3) Save as aforesaid, the procedure for conducting any such investigation shall be such as the Lokayukta or, as the case may be, the Member considers appropriate in the circumstances of the case.

(4) The Lokayukta or a Member may, in his discretion, refuse to investigate or cease to investigate any complaint involving a grievance or, an allegation, if in his opinion-

(a) the complaint is frivolous or vexatious, or is not made in good faith; or

(b) there are no sufficient grounds for investigating or, as the case may be, for continuing the investigation; or

(c) other remedies are available to the complainant and in the circumstances of the case it would be more proper for the complainant to avail of such remedies.

(5) In any case where the Lokayukta or a Member decides

not to entertain a complaint or to discontinue any investigation in respect of a complaint, he shall record his reasons thereof and reject summarily and communicate the same to the complainant and the public servant concerned.

(6) The conduct of an investigation under this Act in respect of any action shall not affect such action, or any power or duty of any public servant to take further action with respect to any matter subject to the investigation.

Evidence.

14. (1) Subject to the procedures laid down in this section, for the purpose of any investigation (including the preliminary inquiry, if any, before such investigation) under this Act, the Lokayukta or a Member may require any public servant or any other person who is in his opinion is able to furnish information or produce documents relevant to the investigation, to furnish such information or produce any such documents.

(2) For the purpose of any such investigation (including the preliminary enquiry) the Lokayukta or a Member shall have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely, -

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses or documents; and
- (f) such other matters as may be prescribed.

(3) Any proceeding before the Lokayukta or a Member shall be deemed to be a judicial proceeding within the meaning of Section 193 of the Indian Penal Code (Central Act 45 of 1860).

(4) Subject to the provision of sub-section (5), no obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to the State Government or any public servant, whether imposed by any enactment or by any rule of law, shall apply to the disclosure of information for the purpose of any investigation under this Act and the State Government or any public servant shall not be entitled in relation to any such investigation to any such privilege in respect of the production of documents or the giving of evidence as is allowed by any enactment or by any rule of law in legal proceedings.

(5) No person shall be required or authorised by virtue of this Act to furnish any such information or answer any such question or produce so much of any document-

- (a) as might prejudice the security of the State or the defence or international relations of India (including India's relations with the Government of any other country or with any international organisation) or the investigation or detection of crime; or
- (b) as might involve the disclosure of proceedings of the Cabinet of State Government or any Committee of that Cabinet and for the purpose of this sub-section a certificate issued by the Chief Secretary certifying that any information, answer or portion of a document is of the nature specified in Clause (a) or Clause (b), shall be binding and conclusive.

(6) Subject to the provisions of sub-section (4) no person shall be compelled for the purpose of investigation under this Act to give any evidence or produce any document which he could not be compelled to give or produce in proceeding before a Court.

Report of
Lokayukta and
Member.

15. (1) If, after investigation of any allegation in respect of which a complaint has been made, the Lokayukta or a Member is satisfied that such allegation has been established, the Lokayukta or a Member shall by a report in writing, recommend to the competent authority concerned, if remedy or action is to be taken under the relevant service law or prosecute as per law, if it involves criminal liability.

(2) The competent authority to whom a report is sent under sub-section (1) shall within one month of the expiry of the time specified in the report, intimate or cause to be intimated to the Lokayukta, the action taken for compliance with the report.

(3) If the Lokayukta or the Member is satisfied with the action taken on his recommendations or findings referred to in sub-section (1) he shall close the case under information to the complainant, the public servant and the competent authority concerned, but where he is not so satisfied and if he considers that the case so deserves, he may make a special report upon the case to the Governor and also inform the complainant concerned.

(4) The Lokayukta and the Member shall present annually a consolidated report on the performance of their functions under this Act to the Governor.

(5) On receipt of a special report under sub-section (3) or the annual report under sub-section (4), the Governor shall cause a copy thereof together with an explanatory memorandum to be laid before the State Legislature.

(6) Subject to the provisions of sub-section (2) of Section 13, the Lokayukta may at his discretion make available, from time to time, the substance of cases closed or otherwise disposed of by him or by a Member, which may appear to him to be of general, public, academic or professional interest in such manner and to such persons as he may deem appropriate.

Action in case of false complaint.

16. (1) Notwithstanding anything contained in any other provision of this Act, every person who wilfully or maliciously makes any false complaint under this Act shall, on conviction, be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

(2) No Court, except a Court of Session, in the case of a complaint investigated by the Lokayukta or a Court of Magistrate, First Class in the case of a complaint investigated by a Member shall take cognizance of the offence under sub-section (1).

(3) No such Court shall take cognizance of such offence as aforesaid except on a complaint in writing made by the Public Prosecutor at the direction of the Lokayukta or a Member as the case may be, and the Court of Session may take cognizance of the offence on such complaint without the case being committed to it, notwithstanding anything contained in the Code of Criminal Procedure, 1973.

(4) Such Court, on conviction of the person making false complaint may award, out of the amount of fine, to the complainant such amount of compensation as it thinks fit.

(5) If at any stage of a proceeding, under this Act before the Lokayukta or a Member it appears to him that any person appearing in such proceeding or any person who filed an affidavit in support of a complaint fabricated false evidence with the intention that such evidence should be used in such proceedings, the Lokayukta or Member, as the case may be, may, if satisfied that it is necessary and expedient in the interest of justice that the person should be tried summarily for giving or fabricating, as the case may be, false evidence, take cognizance of the offence and after giving the offender a reasonable opportunity or showing cause why he should not be punished for such offence, try such offender summarily, so far as may be, in accordance with the procedure prescribed for summary trials under the Code of Criminal Procedure, 1973 and sentence him to imprisonment for a term which may extend to six months or to fine which may extend to five thousand rupees or to both.

(6) When any such offence as is described in Sections 175, 178, 179 or 180 of the Indian Penal Code is committed in the view or presence of the Lokayukta or Member, he may cause the offender to be detained in custody and may, at any time on the same day, take cognizance of the offence and after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, sentence the offender to simple imprisonment for a term which may extend to one month, or to a fine which may extend to five hundred rupees, or to both.

(7) In every case tried under sub-section (6), the Lokayukta or Member, as the case may be, shall record the facts constituting the offence with the statement (if any) made

by the offender as well as the finding and the sentence.

(8) Any person, convicted on trial held under sub-section (5) or sub-section (6) may appeal to the High Court, and the provisions of Chapter XXIX of the Code of Criminal Procedure, 1973, shall, so far as they are applicable, apply to appeals under this sub-section, and the Appellate Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

(9) The provisions of sub-section (5), (6), (7) and (8) shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973, but nothing in these sub-sections shall affect the power of the Lokayukta or Member, as the case may be, to proceed under sub-section (3) in respect of any offence, where it does not chose to proceed under sub-section (2), (6) and (7).

(10) Words and expressions used in sub-sections (5) to (9) and not defined in this Act shall have the same meanings as assigned to them in the Code of Criminal Procedure, 1973.

Staff of Lokayukta
and Members.

17. (1) The Lokayukta may appoint officers and other employees to assist the Lokayukta and the Members in the discharge of their functions under this Act:

Provided that nothing in this sub-section shall be construed to prevent any person who holds a post under the Central or the State Government from being appointed on deputation with the consent of that Government.

(2) The number and categories of officers and employees who may be appointed under sub-section (1) and Section 23, their salaries, allowances and other conditions of service and the administrative powers of Lokayukta and Members shall be such as may be determined by general or special order of the State Government made in consultation with the Lokayukta.

(3) Without prejudice to the provisions of sub-section (1), the Lokayukta or Members may for the purpose of conducting investigations under this Act utilise the services of any officer or investigation agency of the State Government with its concurrence.

Secrecy of
information.

18. (1) Any information obtained by Lokayukta or the Members or by their staff in the course of or for the purpose of any investigation under this Act and any evidence recorded or for the purpose of any investigation under this Act and any evidence recorded or collected in connection with such information, shall subject to the provisions of the proviso to sub-section (2) of section 13, be treated as confidential and notwithstanding anything contained in the Indian Evidence Act, 1872 (Central Act 1 of 1872), no court shall be entitled to compel the Lokayukta or Members or any public servant to give evidence relating to such information or produce the evidence so recorded or collected.

(2) Nothing in sub-section(1) shall apply to the disclosure of information or particulars-

- (a) for purposes of the investigation or in any report to be made thereon or for any action of proceedings to be taken on such report; or
- (b) for purposes of any proceedings for an offence under the Official Secrets Act, 1923 (Central Act 19 of 1923), or an offence of giving or fabricating false evidence under the Indian Penal Code, 1860 (Central Act 45 of 1860) or for the purposes of any trial of an offence under section 13 or any proceedings under section 16; or
- (c) for such purposes as may be prescribed.

(3) An officer or other authority prescribed in this behalf may give notice in writing to the Lokayukta or Members, as the case may be, with respect to any documents or information specified in the notice or any class of documents or information so specified that in the opinion of the State Government the disclosure of the documents or information or of documents or information of that class would be contrary to provision as laid down in Section 8 of Right to Information Act, 2005.

Intentional insults
or interruption to,
or bringing into
disrepute,
Lokayukta
Members.

19. (1) Whoever intentionally offers any insult, or causes any interruption to the Lokayukta or Members while the Lokayukta or the Members is conducting any investigation under this Act, shall, on conviction, be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

(2) Whoever, by words spoken or intended to be read, makes or publishes any statement or does any other act, which is calculated to bring the Lokayukta or Members into disrepute, shall on conviction, be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

(3) The provisions of sub-sections (2) to (6) of section 199 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall apply in relation to an offence under sub-section (1) or sub-section (2) as they apply in relation to an offence referred to in the aforesaid Code and prosecution shall be made by the public prosecutor only with the previous sanction-

(a) in the case of an offence against the Lokayukta, of the Lokayukta; and

(b) in the case of an offence against Members, of the Member concerned.

Protection.

20. (1) No suit, prosecution or other legal proceedings shall lie against the Lokayukta or the Members or against any officer, employee, agency or person referred to in section 17 in respect of anything which is in good faith done or intended to be done under this Act.

(2) No proceedings of the Lokayukta or the Members shall be held invalid for want of form and except on the ground of jurisdiction, no proceedings or decision of the Lokayukta or the Members shall be liable to be challenged, reviewed, quashed or called in question in any court.

Conferment of additional functions of Lokayukta and Members.

21. (1) The State Government may, by notification published in the Official Gazette and after consultation with the Lokayukta, confer on the Lokayukta or Members, as the case may be, such additional functions in relation to the eradication of corruption or such other duties as may be specified in the notification.

(2) The State Government may, by order in writing and after consultation with Lokayukta, confer on the Lokayukta or Member such powers of a supervisory nature over agencies, authorities or officers setup, constituted or appointed by the State Government for the eradication of corruption.

(3) The State Government may, by order in writing and subject to such conditions and limitations as may be specified in the order, require the Lokayukta to investigate any action being an action in respect of which a complaint may be made under this Act, to the Lokayukta or Member and notwithstanding anything contained in this Act the Lokayukta shall comply with such order:

Provided that the Lokayukta may entrust investigation of any such action (being action in respect of which a complaint may be made under this Act) to Member.

(4) When any additional functions are conferred on the Lokayukta or Member under sub-section (1) or when the Lokayukta or Member is to investigate any action under sub-section (3), the Lokayukta or Member shall exercise the same powers and discharge the same functions as he would, in the case of any investigation made on a complaint involving an allegation and the provisions of this Act, shall apply accordingly.

Power to exclude complaints against certain classes of public servants.

22. (1) The State Government may in consultation with the Lokayukta and on being satisfied that it is necessary or expedient in the public interest so to do, exclude, by notification in the Official Gazette, complaints involving an allegation against persons belonging to any class of public servants specified in the notification, from the jurisdiction of the Lokayukta or, as the case may be, Member:

(2) Every notification issued under sub-section (1) shall be laid, as soon as may be, after it is issued, before the State Legislature.

Investigation and Prosecution Wing.

23. (1) The Lokayukta shall, by notification, constitute a prosecution wing for the purposes of prosecution under this Act.

(2) The Lokayukta shall, by notification, constitute a investigation wing for the purposes of investigation under this Act.

Provided that till such time the investigation and prosecution wings as referred to in sub-sections (1) and (2) are constituted by the Lokayukta, the State Government shall make available such number of Public Prosecutors and other

officers and staff for investigation and conducting prosecution under this Act.

(3) The officers of the investigation wing under this Act shall have the powers of a Police Officer as provided under the relevant provisions of Cr.P.C. 1973.

Attachment or
confiscation of
property.

24. (1) Where the Lokayukta or any investigation officer authorised by it in this behalf, has reason to believe, the reason for such belief to be recorded in writing, on the basis of material in his possession, that -

(a) any person is in possession of any proceeds of corruption;

(b) such person is accused of having committed an offence relating to corruption; and

(c) such proceeds of offence are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceedings relating to confiscation of such proceeds of offence, he may, by order in writing, provisionally attach such property for a period not exceeding ninety days from the date of the order.

(2) The Lokayukta shall, immediately after attachment under sub-section (1), forward a copy of the order, along with the material in his possession, referred to in that sub-section, to the competent Court, in a sealed envelope, in the manner as may be prescribed and such Court may extend the order of attachment and keep such material for such period as the Court may deem fit.

(3) Every order of attachment made under sub-section (1) shall cease to have effect after the expiry of the period specified in that sub-section or after the expiry of the period as directed by the Special Court under sub-section (2).

(4) Nothing in this section shall prevent the person interested in the enjoyment of the immovable property attached under sub-section (1) or sub-section (2), from such enjoyment.

Explanation - For the purposes of this sub-section, "person interested", in relation to any immovable property, includes

all persons claiming or entitled to claim any interest in the property.

(5) The Lokayukta, when it provisionally attaches any property under sub-section (1) shall, within a period of thirty days of such attachment, direct its prosecution wing to file an application stating the facts of such attachment before the competent Court and make a prayer for confirmation of attachment of the property till completion of the proceedings against the public servant in the competent Court.

(6) The competent Court may, if it is of the opinion that the property provisionally attached had been acquired through corrupt means, make an order for confirmation of attachment of such property till the completion of the proceedings against the public servant in the competent court.

(7) If the public servant is subsequently acquitted of the charges framed against him, the property, subject to the orders of the competent Court, shall be restored to the concerned public servant along with benefits from such property as might have accrued during the period of attachment.

(8) If the public servant is subsequently convicted of the charges of corruption, the proceeds relatable to the offence under the Prevention of Corruption Act, 1988 shall be confiscated and vest in the State Government free from any encumbrance or leasehold interest excluding any debt due to any bank or financial institution.

Explanation - For the purposes of this sub-section, the expressions "bank", "debt" and "financial institution" shall have the meanings respectively assigned to them in clauses (d), (g) and (h) of section 2 of the Recovery of Debts due to Banks and Financial Institutions, 1993.

(9) Without prejudice to the provisions of sub-section (1) to (8) of this section, where the competent Court, on the basis of *prima facie* evidence, has reason to believe or is satisfied that the assets, proceeds, receipts and benefits, by whatever name called, have arisen or procured by means of corruption by the public servant, it may authorise the confiscation of such assets, proceeds, receipts and benefits till his acquittal.

(10) Where an order of confiscation made under sub-section (9) is modified or annulled by the High Court or where the public servant is acquitted by the Special Court, the assets, proceeds, receipts and benefits, confiscated under sub-section (9) shall be returned to such public servant, and in case it is not possible for any reason to return the assets, proceeds, receipts and benefits, such public servant shall be paid the price thereof including the money so confiscated with the interest at the rate of five percent per annum thereon calculated from the date of confiscation.

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| Power to delegate | 25. The Lokayukta or Member may, by a general or special order in writing direct that any powers conferred or duties imposed on him by or under this Act (except the powers to make reports to the Governor under section 15) may also exercise or discharge by such of the officers, employees or agencies referred to in section 17, as may be specified in the order. |
| Annual disclosure of assets by public servant. | 26. Every public servant is to declare their assets annually in such forms as may be prescribed and such declaration shall be submitted to their respective Competent Authority. |
| Appeal to the High Court. | 27. Any public servant aggrieved by the order passed by the Lokayukta or Members, may appeal to the concerned High Court within a period of one month from the date of such order. |
| Power to make Rules. | 28. (1) The State Government may, by notification in the Official Gazette, make rules for the purpose of carrying out the provisions of this Act.
(2) Every rule made under this Act shall be laid, as soon as may be, after it is made, before the State Legislature of Meghalaya. |
| Power to make Regulations. | 29. (1) The Lokayukta may, with approval of the State Government, make regulations for the purpose of regulating the functions and other required matters of his office.

(2) Every regulation made under this Act shall be laid, as soon as may be after it is made, before the State Legislature of Meghalaya. |

Removal of doubts. 30. For the removal of doubts, it is hereby declared that nothing in this Act shall be construed to authorize the Lokayukta and Member of Lokayukta to investigate into any allegation against-

- (a) the Chief Justice or any Judge of the High Court;
- (b) officers and staff of the High Court;
- (c) Members of the Meghalaya Judicial Service;
- (d) the Chairman or any member of the Meghalaya Public Service Commission;
- (e) the Speaker and the Deputy Speaker of the Meghalaya Legislative Assembly with respect to their actions inside the House only;
- (f) any matter related to Policy formulation by the State Government and any action taken in pursuance of policies so framed; and
- (g) grade IV Government employee and employee below grade IV.

Repeal. 31. The Meghalaya Lokayukta and Up-Lokayukta Act, 2000 (Act 1 of 2002) is hereby repealed.

SCHEDULE**[See section 3(3) and (5)]**

I, having been appointed Lokayukta/Member of the Lokayukta do swear in the name of God/Solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established that I will duly and faithfully and to the best of my ability, knowledge and judgement perform the duties of my office without fear or favour, affection or ill-will.

L. M. SANGMA,
Secretary,
Government of Meghalaya,
Law Department.



The Gazette of Meghalaya

EXTRAORDINARY

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No. 125 Shillong, Wednesday, August 14, 2013, 23rd Sravana-1935 (S. E.)

PART-IV

GOVERNMENT OF MEGHALAYA
LAW (B) DEPARTMENT
ORDERS BY THE GOVERNOR

NOTIFICATION

The 14th August, 2013.

No.LL(B)11/99/165.—The Meghalaya Lokayukta (Amendment) Act, 2013 (Act No. 7 of 2013) is hereby published for general information.

MEGHALAYA ACT NO. 7 OF 2013

(As passed by the Meghalaya Legislative Assembly)

Received the assent of the Governor on 14th August, 2013.

Published in the Gazette of Meghalaya Extra-Ordinary issue dated 14th August, 2013.

THE MEGHALAYA LOKAYUKTA (AMENDMENT) ACT, 2013

An

Act

to amend the Meghalaya Lokayukta Bill, 2012 as passed by the Meghalaya Legislative Assembly. Hereafter referred to principal Bill.

Whereas the Meghalaya Lokayukta Bill, 2012 was passed by the Meghalaya Legislative Assembly on 14th December, 2012.

Whereas further the said Bill was submitted to His Excellency the Governor of Meghalaya for his assent under Article 200 of the Constitution of India and His Excellency the Governor has returned the Meghalaya Lokayukta Bill, 2012 for re-consideration.

Be it enacted by the Legislature of the State of Meghalaya in the Sixty-fourth Year of the Republic of India, as follows:-

**Short title and
Commencement.**

1. (1) This Act may be called the Meghalaya Lokayukta (Amendment) Act, 2013.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

**Amendment of
Section 4.**

2. In section 4 of the principal Act,-

(i) in clause (a) the words "except for re-nomination as Lokayukta" appearing in the last line therein shall be omitted.

(ii) in clause (b) for the word "except for re-nomination as member" the word "except for re-nomination as Lokayukta", shall be substituted.

**Amendment of
Section 5.**

3. Sub-section (2) of section 5 of the principal Act shall be omitted and thereafter sub-sections (3), (4) and (5) shall be renumbered as sub-sections (2), (3) and (4) respectively.

**Amendment of
Section 11.**

4. In Section 11 of the principal Act sub-section (3) shall be omitted and the existing sub-section (4) shall be re-numbered as sub-section (3).

**Amendment of
Section 22.**

5. Section 22 of the principal Act shall be omitted and thereafter sections 23, 24, 25, 26, 27, 28, 29, 30 and 31 shall be renumbered as sections 22, 23, 24, 25, 26, 27, 28, 29 and 30 respectively.

L. M. SANGMA,
Secretary,
Government of Meghalaya,
Law Department.



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PART - I

GOVERNMENT OF MEGHALAYA

EXCISE, REGISTRATION, TAXATION & STAMPS DEPARTMENT

ORDERS BY THE GOVERNOR

NOTIFICATION

The 14th August, 2013.

No.ERTS(T)45/2013/2.—The Governor of Meghalaya is pleased to grant Dr. B. P. Todi, Chairman of the State Task Force for Resource Mobilisation as category 'A' status and a token honorarium of ₹ 10,000/- per month with immediate effect. He will not be entitled to other perks of category 'A' Chairman. However, the perks as entitled against the post of Additional Advocate General vide Law (B) Department's OM.No.LR (B) 1/89/Pt/33, dated 28th March, 2000, No.LR(B)/1/89/Pt/50, dated 18th March, 2002, No.LR(B)/1/89/Pt/55, dated 4th September, 2003, No.GAB-179/89/136, dated 27th November, 2006, No.LR(B)13/2002/Pt/102, dated 2nd February, 2009, No.LR(B)13/2002/Pt.I/5, dated 14th December, 2012 will continue.

B. K. DEV VARMA,

Additional Chief Secretary to the Govt. of Meghalaya,
Excise, Registration, Taxation and Stamps Department.